

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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 WILLIAM R. ROSA, *on behalf of Himself and all other*  
*similarly situated,*

Plaintiff,

22-cv-04720 (LJL)

-v-

MEMORANDUM &  
ORDERMANDARICH LAW GROUP, LLP and JOHN DOES 1-  
25Defendants.  
 -----X

LEWIS J. LIMAN, United States District Judge:

Plaintiff William R. Rosa moves to compel the production of a contract between Defendant and Calvary SPV 1, LLC in advance of a deposition scheduled for today, Monday, September 18, 2023, and to permit Plaintiff to withdraw its response to Defendant's Request for Admission. Dkt. No. 45. The motion to compel is opposed. Dkt. No. 47. The motion is granted in part and denied in part.

The motion to compel is DENIED. A motion for production of documents after the court-ordered close of fact discovery will be granted only upon a showing of good cause. *See Gray v. Town of Darien*, 927 F.2d 69, 74 (2d Cir. 1991); *Oliver v. Am. Express Co.*, 2022 WL 18998430, at \*3 (E.D.N.Y. Nov. 14, 2022); *Zelaya v. Tutor Perini Corp.*, 2017 WL 4712421, at \*3 (S.D.N.Y. Sept. 28, 2017) (Nathan, J.); *Gucci America, Inc. v. Guess?, Inc.*, 790 F. Supp. 2d 136, 139 (S.D.N.Y. 2011); Fed. R. Civ. P. 16 (b)(4) (A scheduling order "may be modified only for good cause and with the judge's consent."). The complaint in this case was filed on June 6, 2022. Dkt. No. 1. Fact discovery in this case closed on March 20, 2023, nearly half a year ago, *see* Minute Entry (Jan. 10, 2023), with deposition testimony to be completed by September 22, 2023, Dkt. No. 44. That deadline itself had been extended from the January 4, 2023 deadline for the close of all fact discovery on the request of the parties. Dkt. Nos. 17–18. A post-discovery conference is scheduled for September 28, 2023, and trial is scheduled for March 4, 2024. Dkt. No. 44.

Plaintiff has shown no good cause for this motion. Defendant objected to providing this document in its response to Plaintiff's Federal Rule of Civil Procedure 34 notice to produce in November 2022. Dkt. No. 45 at 2. Plaintiff had sufficient time for to have moved for the production of the contract in the months then remaining for discovery. It is inappropriate to wait until months after fact discovery has closed and on the eve of the close of depositions to make such a motion without otherwise demonstrating good cause.

The motion for Plaintiff to withdraw his response to Defendant's Request for Admission Number 6 is GRANTED. Under Rule 36(b), an admission may be withdrawn or amended if such action would not prejudice the requesting party and it would promote the presentation of the merits of the action. Fed. R. Civ. P. 36(b). Defendant has not objected to the withdrawal. Dkt. No. 47. Rule 36(b) has been satisfied.

SO ORDERED.

Dated: September 18, 2023  
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN  
United States District Judge